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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,115	05/12/2006	Miguel Antonio Vasquez	1223012	6147
1009 7590 01/16/2009 KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507				
EXAMINER SANDERSON, JOSEPH W				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/565,115

**Applicant(s)**

VASQUEZ ET AL.

**Examiner**

Joseph W. Sanderson

**Art Unit**

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-48 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 24-48 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 1/17/06  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the leash, D-rings and webbed material must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the belt formed of a webbed material.
4. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

5. Claims 25, 34 and 41 are objected to because of the following informalities:  
Claim 25, line 2, "an animal" should be --the animal--;  
Claim 34 appears incomplete due to the language used.  
Claim 41, line 1, the comma after "comprising" should be removed.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 24-35, 38-44, 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Philen et al. (US 6 308 663).

Regarding independent claims 24, 47 and 48:

Philen et al. disclose an animal restraint comprising:

a belt (12) having first and second ends, an elongate linker (18) the belt having rings at each end with apertures (32 and 34);

the elongate linker passing through a ring on the belt and terminating in a stopper (36);

wherein a pulling force directed away from the girth applied to the stopper allows (i.e., is capable of) the girth of the collar to decrease to a size substantially similar to the animal's girth without choking the animal.

Regarding claim 25:

The discussion above regarding claim 24 is relied upon.

Philen et al. disclose the animal girth as a neck girth.

Regarding claims 26 and 27:

The discussion above regarding claim 24 is relied upon.

Philen et al. disclose the movement of the linker through the aperture providing a noise (chains through metal rings inherently produce a noise), which may assist in training (classical conditioning, whereby the animal equates the noise with the action of the collar).

Regarding claims 28-31:

The discussion above regarding claim 24 is relied upon.

Philen et al. disclose the link as a twist-linked chain (as seen in the figures), the metal material and weight of such optimizing the noise produced.

Regarding claims 32-34:

The discussion above regarding claim 24 is relied upon.

Philen et al. disclose a placement device to adjust the belt length comprising a doubled over portion of the one belt end (on the left), a buckle having a buckle tongue (42) and one or more holes for receiving the tongue (as seen in Fig 2).

Regarding claim 35:

The discussion above regarding claim 24 is relied upon.

Philen et al. disclose the stopper as suitable for engagement with a tether (col 4, lines 65-66).

Regarding claims 38-44:

The discussion above regarding claim 24 is relied upon.

Philen et al. disclose the two belt ends having rings (32 and 34), the rings either being O-rings (as depicted) or D-rings (col 2, line 67 – col 3, line 2), and an annular stopper (as depicted).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philen et al. ('663) in view of Ganz (US 2002/0040690).

Philen et al. disclose a removable leash connected to the stopper, but do not disclose the leash as permanently attached to the stopper.

Ganz teaches that it is well-known to use either permanent or removable attachments for leashes (abstract).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Philen et al. to use a permanent attachment as taught by Ganz as this is a functionally equivalent means for predictably performing the same leash attaching function.

Once permanently attached, the leash would be continuous with the stopper.

10. Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philen et al. ('663) in view of David et al. (US 5 732 660).

The discussion above regarding claim 24 is relied upon.

Philen et al. disclose a nylon belt, but do not disclose the belt material as leather, or a webbed material.

David discloses a belt made of leather or nylon webbing (col 3, lines 23-26).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Philen et al. to use leather as taught by David as these are well-known alternative means for forming belts, and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph W. Sanderson whose telephone number is (571)272-0474. The examiner can normally be reached on M-F 7:00 am - 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael R. Mansen can be reached on (571)272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rob Swiatek/  
Primary Examiner, Art Unit 3643  
14 January 2009

Joseph W. Sanderson

JWS